

No. 75-1555

Supreme Court, U. S.

FILED

JUN 15 1976

CLERK

---

**In the Supreme Court of the United States**

OCTOBER TERM, 1975

---

**LENA ROSA KNECHT CONLEY, PETITIONER**

**v.**

**ROBERT E. HAMPTON, ETC., ET AL.**

---

***ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT***

---

**MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION**

---

**ROBERT H. BORK,**  
*Solicitor General,*  
*Department of Justice,*  
*Washington, D.C. 20530.*

---

**In the Supreme Court of the United States**

OCTOBER TERM, 1975

---

No. 75-1555

LENA ROSA KNECHT CONLEY, PETITIONER

v.

ROBERT E. HAMPTON, ETC., ET AL.

---

*ON PETITION FOR A WRIT OF CERTIORARI TO  
THE UNITED STATES COURT OF APPEALS FOR  
THE DISTRICT OF COLUMBIA CIRCUIT*

---

**MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION**

---

On January 27, 1967, petitioner was involuntarily retired from the Department of State for disability. In 1974 she sued in the United States District Court for the District of Columbia seeking a declaration that her retirement is void, reinstatement, back pay of approximately \$38,500 and an award for her "lifetime worth" of \$191,470.

The government moved to dismiss on the grounds that the district court lacked jurisdiction since the complaint sought more than \$10,000 (28 U.S.C. 1346(a)(2)), and that the suit was barred by the statute of limitations and laches. The district court granted the government's motion to dismiss (Pet. App. A-1), and the court of appeals affirmed (Pet. App. A-2).

The decision below is correct, and there is no occasion for further review. While petitioner's suit is nominally against the Chairman of the Civil Service Commission and the Secretary of State, it is in effect a claim against the United States for monetary relief in excess of \$10,000, over which the district court lacked jurisdiction. 28 U.S.C. 1346(a)(2); *Dugan v. Rank*, 372 U.S. 609; *United States v. Testan*, No. 74-753, decided March 2, 1976. Moreover, petitioner's suit is barred by the applicable six year statute of limitations, 28 U.S.C. 2401(a), since petitioner's cause of action accrued on January 27, 1967, more than seven years before the filing of this action, when she was informed of the final decision of the Civil Service. The doctrine of laches constitutes an additional independent basis for the dismissal of her complaint. See e.g., *Gersten v. United States*, 364 F. 2d 850 (Ct. Cl.). To the extent petitioner seeks review of the Commission's determination of disability, her action is barred by 5 U.S.C. 8347(c), which provides that the Civil Service Commission's determinations of retirement disability "are final and conclusive and are not subject to review."

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

ROBERT H. BORK,  
*Solicitor General.*

JUNE 1976.